

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

ALFRED MCZEAL, JR.,

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§

Plaintiff,

§

*versus*

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CIVIL ACTION H-06-1775

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SPRINT NEXTEL CORPORATION, *et al.*,

§

§

Defendants.

§

## Opinion on Dismissal

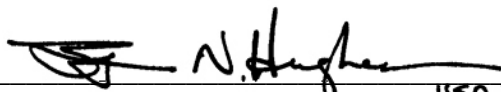
This memorializes and supplements the discussion in the record of the hearing on June 16, 2006.

Taking the facts in his complaint as true, Alfred McZeal, Jr., really has three claims – two for his service marks and one for his patent. One of his registered service marks is the symbol that he created by configuring the words *international*, *walkie*, and *talkie*. The symbol is protected, but the words are generic. The registration gives McZeal no exclusive right to the commercial use of the three words in combination. The same applies to his *push to talk* registration.

His patent claim is that the defendants are doing the same thing as is described in Patent 6,763,226 B1. He concedes that he does not know the means that the defendants use to connect their telephone customers to the rest of the world. He has no reasonable, factual basis for claiming that the defendants are using something that is described in the claims his patent.

McZeal has sliced his complaint into every known legal theory, but none of them is supported by the facts. Since 1992, in this court, McZeal has filed 12 other civil cases and six bankruptcies that have been dismissed for failure to state a claim or want of prosecution; this is merely another instance of his practice. His case is dismissed for failure to state a claim.

Signed June 20, 2006, at Houston, Texas.



Lynn N. Hughes  
United States District Judge